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Office of Legislative Affairs

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Office of the Assistant Attorney General

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May 15, 2001

EXECUTIVE
SECRETARIAT

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Daniel J. Bryant *DJB*
Assistant Attorney General

SUBJECT: Weekly Report for May 14, 2001- May 18, 2001

THIS WEEK

Briefing for House Government Reform on Campaign Financing Task Force Matters: On May 14, 2001, Interim U.S. Attorney Bob Conrad, who previously headed the Task Force and Michael Horowitz, the current Task Force head, briefed Committee staff on the status of various law enforcement matters within the purview of the Task Force, particularly our now closed prosecution of James Riady. We explained that we were not in a position to provide non-public information about pending investigations, which the staff understood as consistent with our long standing policies.

[REDACTED]

We advised the staff that we will follow up with them after our new leadership has had the opportunity to consider their request in this context. (F.Burton) **FOIA EXEMPTION (b)5**

FISA: On May 14, Jim Baker, Acting Counsel for Intelligence Policy and Review, and a representative from the FBI briefed House Permanent Select Intelligence Committee staff on the FISA semiannual report. On May 17, Jim Baker and representatives from FBI and CIA will testify at a Senate Select Intelligence Committee closed hearing on the status of a pending FISA case. (Walter)

Immigration Issues Oversight: On Tuesday, May 15, Kevin Rooney, Acting Commissioner for the INS, and Peggy Philbin, Acting Director for EOIR, will testify before the House Judiciary Subcommittee on Immigration, regarding current immigration-related operations and the President's FY '02 budget request. (D.Burton)

Hanssen: The Senate Select Committee on Intelligence will hold a hearing on the case's status on May 15 with FBI Director Freeh in his last appearance before the Committee before he resigns

from the Bureau. (You have been invited to testify before this Committee on May 22, the day after the deadline for indicting Hanssen, on where the case stands. If there is an earlier resolution of the case through a signed plea agreement, the Committee has asked that you appear at a hearing before them as soon as possible after that occurs.) (Walter)

Senate Drug Caucus:† On May 15, 2001, the Senate Caucus on International Narcotics Control will conduct a hearing† on "The Transit Zone: Strategy and Balance." DEA Administrator Donnie Marshall will testify. (Tanner)

World War II Memorial: On Tuesday, May 15, the House is scheduled to consider HR 1696, a bill to expedite the construction of the World War II Memorial on the National Mall, on the suspension calendar. [REDACTED]

(Pearlman)

FOIA EXEMPTION (b)(5)

Superfund Small Business Liability: On Wednesday, May 16, the House Energy and Commerce Subcommittee on the Environment and Hazardous Materials is scheduled to mark up a draft bill exempting small businesses from superfund liability. The full House Energy and Commerce Committee plans to mark up that same legislation on Thursday, May 17. Staff from DOJ is working with the EPA and OMB to determine if this legislation is something we can support. (Pearlman)

Florida Elections: Representatives of the Civil Rights Division, accompanied by OLA, will provide a briefing for both Senators Graham and Nelson on May 17 in response to their requests for updates about our work in Florida following last November's election. (Scott-Finan)

RECA: On Thursday, May 17, staff from the Civil Division and OLA are participating in a town hall event with staff from Senator Daschle's office in Edgemont, South Dakota, on the RECA program. We will be explaining the purpose of the program, its requirements, answering questions and helping constituents fill out RECA applications. (Pearlman)

Antitrust: Acting Assistant Attorney General John Nannes will testify at a May 17 hearing before the Senate Appropriations Subcommittee on Agriculture concerning agricultural market concentration. (Coughlin, Slover)

The Effectiveness of Rule-of-Law Assistance Programs: On Thursday, May 17th, we will join officials from the State Department and U.S. AID in testifying before the House Government Reform Subcommittee on National Security, Veterans Affairs and International Relations about the Rule-of-Law Assistance Programs in the Newly Independent States. The impact and sustainability of the Program, which is operated by the Criminal Division, DEA, and the FBI, with funding from the Department of State, was criticized in a recent GAO Report. In our view, the GAO failed to consider some of the important aspects of the Program, such as its impact on international law enforcement cooperation. Criminal Division Deputy Assistant Attorney General Bruce Swartz will address these and other issues presented by the Report in his testimony before the Subcommittee. (Burton)

Council of Europe Cyber Crime Convention: On Friday, May 18, the Department will join the State Department to brief Senate Foreign Relations Committee (Helms/Chair) staff on the current status of the draft convention. (Daley)

THE WEEK AHEAD

SW Border - Prescription Drugs: The House Committee on Energy and Commerce plans to conduct a hearing on May 24, 2001, concerning the flow of prescription drugs into the United States. The hearing will address importation of prescription drugs by mail, and also land imports pursuant to the Controlled Substances Trafficking Prohibition Act of 1998, Public Law No. 105-357. This Act allows individuals to bring into the United States from another country up to 50 doses of controlled substances (other than Schedule I) without a prescription. DEA has been asked to provide a witness. (Tanner)

Consequences for Juvenile Offenders Act of 2001: On April 19, the Department sent its views on H.R. 863, "Consequences for Juvenile Offenders Act of 2001" to the House Judiciary Committee. Full Committee markup has already occurred on this bill, and House floor consideration is expected in the next few weeks. We supported the bill. Representative Greenwood has indicated that a hearing is tentatively scheduled on June 6 on provisions he had introduced in H.R. 1150 in the 105th Congress and that were included in H.R. 1501 in the 106th (sections 1312-1314). We have been invited to testify, but will probably decline. (Owen)

THE WEEK IN REVIEW

FISA: On May 7, OLA accompanied a representative from FBI to a briefing of Senate Select Intelligence Committee staff on a matter raised by a pending Foreign Intelligence Surveillance Act (FISA) case. On May 11, Acting Counsel for Intelligence Policy and Review Jim Baker and a representative from FBI briefed Senate Select Intelligence Committee staff on the FISA semiannual report and legal issues related to FISA cases. (Walter)

Lucent: John Dion, Chief of the Internal Security Section, and Martha Stansell-Gamm, Chief of the Computer Crime and Intellectual Property Section of the Criminal Division, joined by two FBI representatives, briefed Senate Select Intelligence Committee staff on May 9 on the arrests of individuals charged with stealing and passing computer trade secrets to China. (Walter)

Section 508 Implementation: Representative Davis convened a multi-agency briefing on implementation of Section 508 of the Rehabilitation Act on May 9, 2001. Section 508 establishes requirements for electronic and information technology developed, maintained, procured, or used by the Federal government. The Disability Rights Section of the Civil Rights Division and the Office Legislative Affairs participated. (Scott-Finan)

Nominations: The Senate Judiciary Committee held a hearing on May 9 on the nominations of Viet Dinh, to be Assistant Attorney General for the Office of Legal Policy, and Michael Chertoff, to be Assistant Attorney General for the Criminal Division. Both are responding to written questions. We anticipate that both will be on the agenda for mark up by the full Committee this week.

The Senate Governmental Affairs Committee has scheduled a hearing on the nominations of Maurice Ross and Eric P. Christian for May 22. Both have been nominated to the D.C. Superior Court.

On May 10, the Senate Judiciary Committee approved the nomination of Larry Thompson, to be Deputy Attorney General, by a vote of 18-0; Dan Bryant, to be Assistant Attorney General for Legislative Affairs by a vote of 18-0; and Charles James, to be Assistant Attorney General for Antitrust by a vote of 14-4. The nominations of Theodore Olson, Michael Chertoff, and Viet Dinh were held over. Both Larry Thompson and Dan Bryant were confirmed by the full Senate on May 10 unanimously by voice vote.

We are working with Ted Olson to respond to Senator Leahy's criticisms.

The White House sent eleven United States Court of Appeals nominations to the Senate on May 9.

Preparedness Against Domestic Terrorism: On May 9, Mary Lou Leary, Acting Assistant Attorney General, Office of Justice Programs, testified before the Subcommittee on Economic Development, Public Buildings and Emergency Management (LaTourette, Chair) of the House Committee on Transportation and Infrastructure on the domestic preparedness programs of the Department of Justice. (Daley)

Authorization Hearings: On May 9, the House Judiciary Committee's Subcommittee on Commercial and Administrative Law (Barr, Chair), held an oversight hearing of the Environment and Natural Resources Division (ENRD), Civil Division (CIV), Executive Office of the U.S. Trustees (EOUST), and Executive Office of the U.S. Attorneys (EOUSA). ENRD Acting Assistant Attorney General John Cruden, CIV Acting Assistant Attorney General Stuart Schiffer, EOUST Acting Director Martha Davis and EOUSA Acting Director Mark Calloway testified. (Thorsen)

Coordination of Criminal Justice Programs in the District of Columbia (D.C.): On May 11, the Subcommittee on the District of Columbia (Morella, Chair) of the House Government Reform Committee held a hearing on how the various federal and local agencies that have responsibility for criminal justice in D.C. can better coordinate their activities. Acting U.S. Attorney for the District of Columbia Kenneth Wainstein and Michael Gaines, Chairman of the Parole Commission, testified. (Scott-Finan)

SPAM: The House Judiciary Committee held a hearing on House versions of the bill (H.R. 718, H.R. 1017) on Thursday, May 10, and has asked to consult with the Department on technical

matters. A House Judiciary Committee markup is expected shortly. The Judiciary Committee's sequential referral expires on June 5, 2001. The Department is currently consulting with the White House and other agencies regarding these bills, all of which have criminal enforcement provisions. (Owen)

Information Sharing: On Friday, May 11, at the request of the Joint Economic Committee (Bennett/Chair), the Department met with staff to discuss their ideas for legislation which would facilitate voluntary information sharing between the private sector and law enforcement on potential risks to critical national infrastructures. (Daley)

Budget Briefing: On Friday, May 11, at the request of the Subcommittee on Crime (Smith/Chair) the Office of Legislative Affairs accompanied budget staff from the Criminal Division who briefed the subcommittee staff on their divisional request for FY 2002. (Daley)

Bankruptcy: Recent published reports indicate that Senate Majority Leader Trent Lott (R-Miss.) and Minority Leader Tom Daschle (D-S.D.) are no longer close to an agreement on dividing the power for conference committees. We have not heard any word on timing for the conference on bankruptcy reform legislation. (Wilson)

House Government Reform Inquiry about the Clemency Review Process: We have received additional requests from this Committee for information and documents about the Department's deliberations relating to the pardons and commutations granted by President Clinton on January 20, 2001 and, particularly, the commutation of Carlos Vignali. We are awaiting further guidance about the extent to which the Administration will entertain oversight regarding the clemency review process and Executive Branch deliberations leading to decisions on these matters. (Burton)